

1                                   BEFORE THE  
2                                   POLLUTION CONTROL HEARINGS BOARD  
                                  STATE OF WASHINGTON

3   IN THE MATTER OF               )  
4   E. K. ARMSTRONG, JR.,        )  
                                  )  
5                   Appellant,    )  
                                  )  
6               vs.                )  
                                  )  
7   OLYMPIC AIR POLLUTION        )  
8   CONTROL AUTHORITY,            )  
                                  )  
9                   Respondent.   )  
                                  )

PCHB No. 429

FINAL FINDINGS OF FACT,  
CONCLUSION AND ORDER

10       THIS MATTER being an appeal of a \$150.00 civil penalty for an  
11   alleged violation of conditions of an open burning permit; having  
12   come on regularly for hearing before the Pollution Control Hearings  
13   Board on the 13th day of November, 1973; at Lacey, Washington; and  
14   appellant E. K. Armstrong, Jr. not appearing and respondent Olympic  
15   Air Pollution Control Authority appearing through its attorney, L. L.  
16   Gentry; and board members present at the hearing being W. A. Gissel  
17   and Mary Ellen McCaffree; and the Board having waited one-half hour  
18   for appearance of appellant, entered on the 19th day of November, 1973.

1 its proposed Findings of Fact, Conclusion and Order and the Board  
2 having served said proposed Findings, Conclusion and Order upon all  
3 parties herein by certified mail, return receipt requested and twenty  
4 days having elapsed from said service; and

5 The Board having received no exceptions to said proposed Findings,  
6 Conclusion and Order; and the Board being fully advised in the premises;  
7 now therefore,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
9 Findings of Fact, Conclusion and Order, dated the 19th day of  
10 November, 1973, and incorporated by this reference herein and attached  
11 hereto as Exhibit A, are adopted and hereby entered as the Board's  
Final Findings of Fact, Conclusion and Order herein.

13 DONE at Lacey, Washington this 4th day of January, 1974.

14 POLLUTION CONTROL HEARINGS BOARD

15   
16 W. A. GISSBERG, Member

17   
18 MARY ELLEN McCAFFREE, Member

19  
20 CERTIFICATION OF MAILING

21 I, Dolores Osland, certify that I mailed copies of the foregoing  
22 document on the 7th day of January, 1974 to each of the following  
23 parties:

24 Mr. E. K. Armstrong, Jr.  
25 606 South Sherman  
Olympia, Washington 98501

26 FINAL FINDINGS OF FACT,  
27 CONCLUSION AND ORDER

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF )  
E. K. ARMSTRONG, JR., )  
Appellant, )  
vs. )  
OLYMPIC AIR POLLUTION )  
CONTROL AUTHORITY, )  
Respondent. )

PCHB No. 429

FINDINGS OF FACT,  
CONCLUSION AND ORDER

An informal hearing on the appeal of E. K. Armstrong, Jr. to a notice of civil penalty of \$150.00 for an alleged violation of conditions of an open burning permit came on before Board members W. A. Gissberg (presiding) and Mary Ellen McCaffree on November 13, 1973, in Lacey, Washington.

The hearing was called to order at 3:00 p.m., the time set by the Board for the hearing. Appellant not appearing, the Board waited for his appearance until 3:30 p.m. and he still appeared not; respondent appeared by and through its attorney, Fred Gentry.

EXHIBIT A

1 Having heard the testimony and considered the exhibits and being  
2 fully advised the Board makes and enters these

3 FINDINGS OF FACT

4 I.

5 Respondent issued to E. K. Armstrong, Jr., appellant herein,  
6 an open burning permit containing many conditions among which were  
7 that burn piles were to be limited to a diameter of ten feet and that  
8 only one pile at a time was to be burned.

9 II.

10 On June 21, 1973, appellant caused or allowed three open  
11 burning fires to occur at the site described in his permit. One of  
12 the piles was of a diameter in excess of ten feet.

13 III.

14 Appellant violated conditions 8(1) and (2) of his burning permit.

15 IV.

16 Section 9.01 of respondent's Regulation I makes it unlawful for  
17 any person to cause or allow any open fire of wood-waste or from  
18 land clearing operations except by permit from respondent. Respondent's  
19 regulation, Section 9.01(c) permit the imposition of conditions to  
20 the permit.

21 From which the Board makes the following

22 CONCLUSION OF LAW

23 I.

24 Appellant violated respondent's Regulation I.

25 From which comes this

26  
27 FINDINGS OF FACT,  
CONCLUSION AND ORDER

ORDER

The appeal is denied and the civil penalty is affirmed.

DONE at Lacey, Washington, this 19<sup>th</sup> day of November, 1973.

POLLUTION CONTROL HEARINGS BOARD

  
W. A. GISSBERG, Presiding Officer

  
MARY ELLEN McCAFFREE, Member

FINDINGS OF FACT,  
CONCLUSION AND ORDER